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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,603	04/11/2001	Timothy J. Cooney	D-5045	1875

30409 7590 12/30/2004

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EXAMINER
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CHARLES, DEBRA F

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/832,603

Applicant(s)

COONEY ET AL.

Examiner

Debra F. Charles

Art Unit

3628

*WV*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on August 8, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claim 8 has been amended.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC§103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard G. Newman, "Determining the Fair Price" in Management Accounting, June 1989; 70, 12, pages 27-31; and Horie (U.S.PAT. 5546564A).

Re claim 1: Newman discloses using a computerized process that includes databases from which aspects of the cost are capable of being determined, provided lowest cost potential design, lowest cost potential manufacturing practices, lowest cost potential

Art Unit: 3628

supply chain management techniques, lowest cost potential labor rates, lowest cost potential uptimes and lowest cost potential yields are utilized, can be determined(page 27, cols. 1 and 2, page 28, cols. 2 and 3),  
generating reports from said computerized process that include details of each aspect of the cost(Fig. 1, Tables 1-5);

providing the reports to prospective suppliers of the component or service(Fig. 1, Tables 1-5),

conducting discussions, with the prospective suppliers of the component or service, in an effort to gain concurrence on the fact basis of what the cost of the component, service or process ought to be(page 30, col. 3);

conducting fact based discussions, with prospective suppliers of the component or service with whom concurrence on the cost has been reached, in an effort to reach an agreement on a price for the component, service or process based on the ought to be cost of the component, service or process ought to be(page 30, col. 3, page 31, cols. 1-2.)

Art Unit: 3628

Newman disclose(s) the claimed invention except determining, by the computerized process, a lowest potential cost for each of a plurality of aspects of the cost and totaling the lowest potential cost for each of a plurality of aspects, yielding the ought to be cost. However, in Abstract, col. 1, lines 50-60, col. 2, line 1-col. 3, line 30 thereof, Horie disclose(s) estimating the probability of a cost of an item or service based on various different factors compiled together and using the weighed average of that data. It would be obvious to one of ordinary skill in the art to modify the invention of Newman based on the teachings of Horie. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Re claim 8: Newman disclose a method of using a computer to develop a factual report used in fact driven discussions with a supplier in an effort to establish what the cost of a part or service ought to be (page 27, cols. 1 and 2, page 28, cols. 2 and 3, tables 1-5), comprising the steps of:

identifying and quantifying the cost components of a part or step of a process that when totaled, determine what the cost of the part or process ought to be provided the lowest cost potential design, manufacturing practices, supply chain management techniques, labor rates, uptimes and yields(page 28, cols. 2-3; page 29, cols. 1-3);

outputting from the computer program a report that specifies the cost of each part or process and how each component of this cost was established(Tables 1-5);

utilizing this report in cost driven discussions with a supplier to obtain an agreement with the supplier to provide parts or services at a price that is based on the ought-to-be cost(page 30, cols. 1-2, page 31, cols. 1-3).

Newman disclose(s) the claimed invention except inputting into the computer a plurality of possible costs for the cost components; making necessary calculations for each component of the part or step in the process; determining the lowest cost potential for each component of the part or step of the process; totaling the lowest cost potential for each of components and recording this as an ought-to-be cost. However, in Abstract, col. 1, lines 50-60, col. 2, line 1-col. 3, line 30 thereof, Horie disclose(s) estimating the probability of a cost of an item or service based on various different factors compiled together and using the weighed average of that data. It would be obvious to one of ordinary skill in the art to modify the invention of Newman based on the teachings of Horie. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

5. Claims 13, 14, 15,16, 17, 18, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al.(U.S. PAT. 5189606 A) and Newman.

Re claims 13 and 15: Burns et al. disclose a method comprising the steps of:

determining a design for a part(col. 5, lines 15-30);

Burns et al. disclose(s) the claimed invention except determining, by a computer, a lowest cost potential from a plurality of costs for at least two manufacturing factors for manufacturing the part, wherein the at least two manufacturing factors include at least two of: manufacturing practices to manufacture the part, supply chain management techniques to supply the part, labor rates to make the part, up time for equipment utilized to manufacture the part, yields of manufacturing the part, overhead, freight, and equipment utilized to manufacture the part; combining, by a computer, the lowest cost potential for the at least two manufacturing factors, yielding an ought-to-be cost for the part.

However, in page 27, cols. 1 and 2, page 28, cols. 2 and 3, page 30, cols. 2-3, tables 1-5, thereof, Newman disclose(s) compiling data analysis to generate cost data from which the lowest possible cost can be deduced or inferred. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Art Unit: 3628

Re claim 14: Burns et al. disclose the claimed invention except the step of conducting discussions over the ought-to-be cost for the part with one or more prospective suppliers of the part in an effort to reach an agreement a price to pay a chosen supplier for the part. However, in page 30, col. 2-3, and page 31, cols. 1-3 thereof Newman disclose discussions on possible price concessions and negotiating effectively for price concessions. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Re claim 16: Burns et al. disclose the claimed invention except generating an updated ought-to-be cost for use in discussions with a supplier. However, in page 30, col. 2-3, and page 31, cols. 1-3, tables 1-5 thereof Newman disclose tables of generated data, discussions on possible price concessions and negotiating effectively for price concessions. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.



Art Unit: 3628

Re claim 17: Burns et al. disclose further comprising the steps of determining a second design for the part(col. 18, line 45-col. 19, line 25);

Burns et al. disclose the claimed invention except determining, by the computer, a lowest cost potential for the second design for each of at least two of the plurality of manufacturing factors; Generating, by the computer, an ought-to-be cost for the part from the lowest cost potential for the first design for each of the two or more manufacturing factors and the lowest cost potential for the second design for each of the at least two manufacturing factors. However, in page 27, cols. 1 and 2, page 28, cols. 2 and 3, page 30, cols. 2-3, tables 1-5, thereof, Newman disclose(s) compiling data analysis to generate cost data from which the lowest possible cost can be deduced or inferred. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Re claims 18 and 19: Burns et al. disclose(s) the claimed invention except totaling, by a computer, the lowest cost potential for each of the plurality of cost components of the part, resulting in an ought-to-be cost for the part; engaging in cost-driven discussions with a supplier to obtain an agreement with the supplier to provide parts at a price that is based upon the ought-to-be cost; by a computer, identifying a plurality of cost components of a part and determining, from among a plurality of costs for the plurality of

Art Unit: 3628

cost components, a lowest cost potential cost components of a part, wherein the cost components include costs related to at least one of material, labor, capital, machining, and overhead.

However, in page 27, cols. 1 and 2, page 28, cols. 2 and 3, page 30, cols. 2-3, page 31, cols. 1-3, tables 1-5, thereof, Newman disclose(s) compiling data analysis to generate cost data from which the lowest possible cost can be deduced or inferred, and negotiating price reductions or concessions based on the data analysis. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Re claim 20: Burns et al. disclose(s) the claimed invention except further comprising the steps of establishing a database that contains the lowest cost potential cost components a computer program to obtain the ought-to-be cost for the part. However, in page 27, cols. 1 and 2, page 28, cols. 2 and 3, thereof, Newman disclose estimating material cost of product using financial databases such as Media General Plus, and Investext from Dialog Information Services. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. based on the teachings of Newman. The motivation to combine these references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Art Unit: 3628

6. Claims 2-7, 9, 10, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman, Burns et al., Horie and Dudle et al.(U.S. PAT. 5570291A).

Re claims 2,5, 9 and 12: Newman discloses in a computerized system, a method of determining what the cost of a part or service ought to be, the method comprising: establishing one or more databases that store a plurality costs distributed among each of a plurality of cost components that are utilized for producing parts and services, (page 27, cols. 1 and 2, page 28, cols. 2 and 3), wherein the cost components include one or more of: design, manufacturing practices, supply chain management techniques, labor rates, uptimes and yields; providing database interface for the database(page 28, cols. 2 and 3);

wherein the cost components are elements of cost area such as material, labor, capital, manufacturing and overhead(page 28, col. 2-3, page 29, col. 1-3, page 30, col. 1); for each cost area, totaling a lowest cost potential for each cost component, yielding a plurality of subtotals; totaling each of the plurality of subtotals, yielding a lowest potential cost that is the ought to be cost of the part or service(page 28, col. 2-3, page 29, col. 1-3).

Art Unit: 3628

Newman disclose(s) the claimed invention except establishing a set of computer screens, including input fields into which cost components are capable of being inputted either directly or through menus that display options are capable of being selected.

However, in Fig. 1, 14f, item 481, claim 1, thereof, Burns et al. discloses input control means for inputting parameters into the computer system. It would be obvious to one of ordinary skill in the art to modify the invention of Newman based on the teachings of Burns et al. The motivation to combine these Burns et al. and Newman references is to effectively and efficiently access and update computer databases.

Newman and Burns et al. disclose(s) the claimed invention except allowing remote access by one or more users and wherein the computer system is accessible from a network by authorized users of the network. However, in Abstract, col. 2, lines 4-25 thereof, Dudle et al. disclose(s) remotely communicating with computers from and to corporate offices and sales representatives offices. It would be obvious to one of ordinary skill in the art to modify the invention of Newman and Burns et al. based on the teachings of Dudle et al. The motivation to combine these Newman, Burns et al. and Dudle et al. references is to effectively and efficiently remotely access computer databases and computer systems is well known as indicated in Dudle et al. and would make the Newman and Burns et al. system available to cost estimating personnel worldwide for more effective, consistent cost analysis.

Art Unit: 3628

Newman, Burns et al. and Dudle et al. disclose(s) the claimed invention except said computer program having the capability to determine a lowest cost potential for each of a plurality of cost components and to total each of the plurality of lowest cost potential cost components, yielding the ought to be cost of the part or service. However, in Abstract, col. 1, lines 50-60, col. 2, line 1-col. 3, line 30 thereof, Horie disclose(s) estimating the probability of a cost of an item or service based on various different factors compiled together and using the weighed average of that data. It would be obvious to one of ordinary skill in the art to modify the invention of Burns et al. and Dudle et al. based on the teachings of Horie. The motivation to combine these Burns et al., Dudle et al. and Horie references is to ensure a more efficient and accurate method of calculating the potential cost of a service or item.

Re claims 3,4,6, 7, 10 and 11:

Burns et al. disclose printing out a report for a screen describing the components of the screen and the inputted amounts and the subtotal for the screen and printing out a report for all screens describing the components of each screen, the inputted amounts for each component, the subtotal for each screen and a total of all screens (col. 4, lines 5-25, col. 51, lines 40-55, col. 52, lines 1-10, col. 18, lines 65-67, Fig. 14f, item 482).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.


Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Debra F. Charles  
Examiner  
Art Unit 3628

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FRANTZY POINVIL  
PRIMARY EXAMINER

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